

B. Remarks

The claims are 1-6, with claim 1 being the sole independent claim.

Reconsideration of the present claims is expressly requested.

Claims 1-4 stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent No. 5,992,974 (Miyata). Claims 5 and 6 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Miyata. The grounds of rejection are respectfully traversed.

In the Advisory Action dated May 6, 2003, the Examiner deemed the compensation patterns in Miyata to be represented by reference number 7 in Fig. 5(h). Applicant respectfully disagrees.

In the presently claimed invention, the top plate is anisotropically etched through a mask layer and the liquid chamber is formed to have a substantially rectangular shape at the nozzle surface of the top plate by over-etching portions with the compensation patterns, which extend into the liquid chamber region. As a result, the liquid chamber and the plurality of nozzles are formed on the top plate.

However, in Fig. 5(h) of Miyata, the liquid chamber and the nozzle clearly are not formed on the same plate. Specifically, while the nozzle plate 6 contains a nozzle 7, it does not contain a liquid chamber. The liquid chamber in Miyata is formed in the based material 42 via anisotropic etching, as shown in Fig. 5(a)-(g). Then, the nozzle plate is bonded to this etched base material (col. 7, lines 42-52). Therefore, it is clear that the nozzle 7 cannot be a "compensation pattern" as presently claimed. Accordingly, Miyata cannot affect the patentability of the presently claimed invention.

The Examiner stated in the Advisory Action that the proposed drawing corrections filed on April 23, 2003 are disapproved, because they are not marked in red. The Examiner will note that Applicant did not file proposed drawing corrections on April


23, 2003. The drawings filed on April 23, 2003 are new formal drawings, which reflect the changes approved by the Examiner in the February 25, 2003 Office Action. Clearly, new formal drawings should not be marked in red.

Wherefore, Applicant respectfully requests that the above rejections and the objection to the drawings be withdrawn and the present application be passed to issue.

This Response After Final Rejection should be entered, because it places the case in allowable form. Alternatively, this Response places the case in better form for possible appeal.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,


Attorney for Applicant
Registration No. 48,512

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

NY_MAIN 350409v1